

FILED  
U.S. DISTRICT COURT  
DISTRICT OF MARYLAND

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

Baltimore Division

CLERK'S OFFICE  
AT BALTIMORE  
DEPUTY

UNITED STATES OF AMERICA )

v. )

PAUL M. WILKINSON, )

Defendant. )

Criminal No. WMN-07-0570

Dated: July 29, 2008

Violation: 18 U.S.C. § 371  
18 U.S.C. § 1343, 1346, 1349  
18 U.S.C. § 1832

**PLEA AGREEMENT**

The United States of America and Paul M. Wilkinson ("defendant") hereby enter into the following Plea Agreement pursuant to Rule 11(c)(1)(B) of the Federal Rules of Criminal Procedure ("Fed. R. Crim. P."):

**RIGHTS OF DEFENDANT**

1. The defendant understands his rights:

- (a) to be represented by an attorney;
- (b) to be charged by Indictment;
- (c) to plead not guilty to any criminal charge brought against him;
- (d) to have a trial by jury, at which he would be presumed not

guilty of the charges and the United States would have to prove every essential element of the charged offenses beyond a reasonable doubt for him to be found guilty;

(e) to confront and cross-examine witnesses against him and to subpoena witnesses in his defense at trial;

(f) not to be compelled to incriminate himself;

- (g) to appeal his conviction, if he is found guilty; and
- (h) to appeal the imposition of sentence against him.

**AGREEMENT TO PLEAD GUILTY**  
**AND WAIVE CERTAIN RIGHTS**

2. The defendant knowingly and voluntarily waives the rights set out in paragraph 1(b)-(g) above, including all jurisdictional defenses to the prosecution of this case, and agrees voluntarily to consent to the jurisdiction of the United States to prosecute this case against him in the United States District Court for the District of Maryland. The defendant also knowingly and voluntarily waives the right to file any appeal, including but not limited to an appeal under 18 U.S.C. § 3742, unless the sentence imposed by the Court is above an Offense Level 24, in which case defendant's appeal will be expressly limited to contesting the portion of the sentence above an Offense Level 24. This agreement does not affect the rights or obligations of the United States as set forth in 18 U.S.C. § 3742(b). The defendant will plead guilty to the three-count Indictment filed in the United States District Court for the District of Maryland on December 5, 2007, charging the defendant with conspiracy to defraud the United States, in violation of Title 18, United States Code, Section 371; conspiracy to commit wire fraud, to wit, to defraud Kropp Holdings, Inc., d/b/a Avcard (hereinafter "Avcard"), a Maryland company, of its confidential business information by materially false and fraudulent pretenses, representations and promises and to defraud Avcard of the intangible right of the honest services of its employee, Matthew Bittenbender, by materially false and fraudulent pretenses, representations and promises in violation of Title 18, United States Code, Section 1349; and conspiracy to steal trade secrets in

violation of Title 18, United States Code, Section 1832(a)(5). The elements of these offenses to which the defendant has agreed to plead guilty, and which the United States would prove if the case went to trial are as follows. As to 18 U.S.C. § 371: (1) the existence of an agreement; (2) an overt act by one of the conspirators in furtherance of the objects of the conspiracy; and (3) an intent on the part of the conspirators to agree to impair and impede a lawful government function. As to 18 U.S.C. § 1349: (1) that defendant conspired to commit wire fraud in violation of 18 U.S.C. § 1343 and 18 U.S.C. §§ 1343, 1346 by (i) devising a scheme and artifice to defraud by materially false and fraudulent pretenses, representations and promises and (ii) using the interstate and foreign wires for the purpose of executing such a scheme. As to 18 U.S.C. § 1832(a)(5): (1) that defendant conspired with one or more persons to knowingly steal and without authorization appropriate, take, and carry away a trade secret and knowingly receive, buy, and possess a stolen trade secret (i) with intent to convert the trade secret, which was related to a product placed in interstate and foreign commerce; (ii) to the economic benefit of anyone other than its owner; (iii) intending and knowing that the offense will injure the owner of the trade secret; and (2) one of the participants took an overt act in furtherance of the objects of the conspiracy. Defendant understands the elements of these offenses, admits that he is guilty of these offenses, and will so advise the Court.

3. The defendant, pursuant to the terms of this Plea Agreement, will plead guilty to the criminal charges described in paragraph 2 above and will make a factual admission of guilt to the Court in accordance with Fed. R. Crim. P. 11, set forth in paragraph 4. The defendant agrees those facts establish his guilt beyond a reasonable doubt.

### **FACTUAL BASIS FOR OFFENSES CHARGED**

4. The defendant knowingly, voluntarily, and truthfully admits as fact the allegations contained in the Indictment of December 5, 2007, which are incorporated herein by reference.

### **POSSIBLE MAXIMUM SENTENCE**

5. The defendant understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of 18 U.S.C. § 371 is:

(a) a term of imprisonment for five (5) years (18 U.S.C. § 371);

(b) a fine in an amount equal to the greatest of (1) \$250,000; or (2) twice the gross pecuniary gain the conspirators derived from the crime; or (3) twice the gross pecuniary loss caused to the victims of the crime by the conspirators; and

(c) a term of supervised release of not more than three years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be imprisoned for up to two (2) years (18 U.S.C. § 3559(a)(4); 18 U.S.C. § 3583(b)(2) and (e)(3); and United States Sentencing Guidelines (“U.S.S.G.” “Sentencing Guidelines,” or “Guidelines”) § 5D1.2(a)(2)).

6. The defendant understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of 18 U.S.C. § 1349 is:

(a) a term of imprisonment for twenty (20) years (18 U.S.C. § 1349);

(b) a fine in an amount equal to the greatest of (1) \$250,000; or (2) twice the gross pecuniary gain the conspirators derived from the crime; or (3) twice the gross pecuniary loss caused to the victims of the crime by the conspirators; and

(c) a term of supervised release of not more than three years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be imprisoned for up to two (2) years (18 U.S.C. § 3559(a)(3); 18 U.S.C. § 3583(b)(2) and (e)(3); U.S.S.G. § 5D1.2(a)(2)).

7. The defendant further understands that the statutory maximum penalty which may be imposed against him upon conviction for a violation of 18 U.S.C. § 1832 is:

(a) a term of imprisonment for ten (10) years (18 U.S.C. § 1832(a));

(b) a fine in an amount equal to the greatest of (1) \$250,000; or (2) twice the gross pecuniary gain the conspirators derived from the crime; or (3) twice the gross pecuniary loss caused to the victims of the crime by the conspirators; and

(c) a term of supervised release of not more than three years following any term of imprisonment. If the defendant violates any condition of supervised release, the defendant could be imprisoned for up to two (2) years (18 U.S.C. § 3559(a)(3); 18 U.S.C. § 3583(b)(2) and (e)(3); U.S.S.G. § 5D1.2(a)(2)).

8. In addition, the defendant understands that:

(a) pursuant to U.S.S.G. § 5E1.1 or 18 U.S.C. § 3663A(c)(1)(A)(ii), the Court shall order him to pay restitution to the victims of the offenses; and

(b) pursuant to 18 U.S.C. § 3013(a)(2)(A), the Court is required to order the defendant to pay a \$300.00 special assessment upon conviction for the charged crimes.

#### **SENTENCING GUIDELINES**

9. The defendant understands that the Sentencing Guidelines are advisory, not

mandatory, and that the Court must consider the Guidelines in effect on the day of sentencing, along with the other factors set forth in 18 U.S.C. § 3553(a), in determining sentence. The defendant understands that the Guidelines determinations will be made by the Court by a preponderance of the evidence standard. The defendant understands that although the Court is not ultimately bound to impose a sentence within the applicable Guidelines range, its sentence must be reasonable based upon consideration of all relevant sentencing factors set forth in 18 U.S.C. § 3553(a). The defendant agrees that this plea agreement, along with the record created by the United States and the defendant at the plea and sentencing hearings, will provide sufficient information concerning the defendant, the crimes charged, and the defendant's role in the crimes to enable the meaningful exercise of the Court's sentencing authority under 18 U.S.C. § 3553.

#### **SENTENCING AGREEMENT**

10. The United States and the defendant understand, agree and stipulate to the following applicable Sentencing Guidelines considerations and factors:

- (a) The November 1, 2007 edition of the Guidelines applies;
- (b) Counts 1, 2, and 3 group pursuant to U.S.S.G. § 3D1.2(d), and the controlling Guideline applicable to Counts 1, 2, and 3 is U.S.S.G. § 2B1.1;
- (c) Pursuant to the Guidelines § 2B1.1(a)(1), the base offense level is 7;
- (d) A substantial part of the fraudulent scheme was committed from outside the United States, and therefore, a two-level increase is appropriate pursuant to U.S.S.G. § 2B1.1(b)(9)(B);
- (e) The parties agree to contest the amount of loss intended or occasioned by

this conduct, and thus leave to the judgment of the Court the appropriate Guidelines enhancement under U.S.S.G. § 2B1.1(b)(1). The United States agrees, however, that it will not argue that the loss results in more than an eighteen-level increase pursuant to U.S.S.G. § 2B1.1(b)(1)(J).

(f) The parties further agree that there exists no aggravating or mitigating circumstance of a kind, or to a degree, not adequately taken into consideration by the United States Sentencing Commission in formulating the Guidelines justifying a departure pursuant to U.S.S.G. § 5K2.0. The defendant is free, however, to ask the Court to consider the factors set forth in 18 U.S.C. § 3553(a) in determining and imposing sentence; the defendant understands that the United States may oppose the defendant's sentencing recommendation based on those factors.

11. The United States does not oppose a two-level reduction in the defendant's adjusted offense level, based upon the defendant's apparent prompt recognition and affirmative acceptance of personal responsibility for his criminal conduct. The United States agrees to make a motion pursuant to U.S.S.G. § 3E1.1(b) for an additional one-level decrease in recognition of the defendant's timely notification of his intention to plead guilty. The United States may oppose any adjustment for acceptance of responsibility if the defendant (a) fails to admit as fact the allegations in the Indictment; (b) denies involvement in the offenses; (c) gives conflicting statements about his involvement in the offenses; (d) is untruthful with the Court, this Office, or the United States Probation Office; (e) obstructs or attempts to obstruct justice prior to sentencing; (f) engages in any criminal conduct between the date of this agreement and the date

of sentencing; or (g) attempts to withdraw his plea of guilty.

12. The defendant understands that there is no agreement as to his criminal history or criminal history category, and that his criminal history or criminal history category could alter his offense level, if he is a career offender or if the instant offense was a part of a pattern of criminal conduct from which he derived a substantial portion of his income.

13. The United States and the defendant agree that with respect to the calculation of the advisory Guidelines range, no other offense characteristics, sentencing guidelines factors, potential departures or adjustments as set forth in Chapters 2, 3, 4, or 5 of the Sentencing Guidelines will be raised, argued, or are in dispute.

14. The United States and the defendant understand that the Court retains complete discretion to accept or reject the Guidelines calculations provided for in paragraph 10 of this Plea Agreement. The defendant understands that, as provided in Fed. R. Crim. P. 11(c)(3)(B), if the Court does not impose a sentence consistent with the recommended Guidelines stipulations contained in this Agreement, he nevertheless has no right to withdraw his guilty plea.

#### **RESTITUTION**

15. The defendant agrees to the entry of a restitution order for the full amount of the victims' actual losses pursuant to 18 U.S.C. §§ 3556, 3663A(c)(1)(A)(ii), and 3664(f)(1)(A), as determined by the Court at sentencing. The defendant agrees that his restitution obligation shall be joint and several with any other defendants ultimately convicted in this matter, if any, but that the Court may apportion liability among defendants, pursuant to the procedures set forth in 18 U.S.C. § 3664, to reflect the level of contribution to the victims' losses and the economic



circumstances of each defendant. The United States agrees not to oppose the imposition of a reasonable payment schedule, as directed by the Court after its review of the factors enumerated in 18 U.S.C. § 3664. The defendant further agrees that the Court shall maintain continuing supervisory authority over the restitution owed to the victims in this matter and, pursuant to 18 U.S.C. § 3664(k), the Court may adjust the payment schedule or apportionment of that restitution obligation in order to account for a material change in the defendant's economic circumstances or to ensure repayment of the victims' losses.

#### **GOVERNMENT'S AGREEMENT**

16. Upon the Court's acceptance of the guilty plea called for by this Plea Agreement and the imposition of sentence, the United States will not bring further criminal charges against the defendant for any act or offense committed before the date of this Plea Agreement that was undertaken in furtherance of the crimes arising from the facts set forth in the Indictment of December 5, 2007 and in this Plea Agreement ("Relevant Offense"). The nonprosecution terms of this paragraph do not apply to civil matters of any kind, to any violation of the federal tax or securities laws, or to any crime of violence.

17. The defendant understands that he may be subject to administrative action by federal or state agencies other than the Department of Justice, Antitrust Division, based upon the conviction resulting from this Plea Agreement, and that this Plea Agreement in no way controls whatever action, if any, other agencies may take.

#### **REPRESENTATION BY COUNSEL**

18. The defendant has reviewed all legal and factual aspects of this case

with his attorney and is fully satisfied with his attorneys' legal representation. The defendant has thoroughly reviewed this Plea Agreement with his attorneys and has received satisfactory explanations from his attorneys concerning each paragraph of this Plea Agreement and alternatives available to the defendant other than entering into this Plea Agreement. After conferring with his attorneys and considering all available alternatives, the defendant has made a knowing and voluntary decision to enter into this Plea Agreement.

#### **VOLUNTARY PLEA**

19. The defendant's decision to enter into this Plea Agreement and to tender a plea of guilty is freely and voluntarily made and is not the result of force, threats, assurances, promises, or representations other than the representations contained in this Plea Agreement. The United States has made no promises or representations to the defendant as to whether the Court will accept or reject the recommendations contained within this Plea Agreement.

#### **VIOLATION OF PLEA AGREEMENT**

20. The defendant agrees that should the United States determine in good faith that the defendant has violated any provision of this Plea Agreement, the United States will notify the defendant or his counsel in writing by personal or overnight delivery or facsimile transmission and may also notify his counsel by telephone of its intention to void any of its obligations under this Plea Agreement (except its obligations under this paragraph), and the defendant shall be subject to prosecution for any federal crime of which the United States has knowledge including, but not limited to, the substantive offenses relating to the investigation resulting in this Plea Agreement. The defendant may seek Court review of any determination

made by the United States under this paragraph to void any of its obligations under the Plea Agreement. The defendant agrees that, in the event that the United States is released from its obligations under this Plea Agreement and brings criminal charges against the defendant for any Relevant Offense, the statute of limitations period for such offense will be tolled for the period between the date of the signing of this Plea Agreement and six (6) months after the date the United States gave notice of its intent to void its obligations under this Plea Agreement.

21. The defendant understands and agrees that in any further prosecution of him resulting from the release of the United States from its obligations under this Plea Agreement based on the defendant's violation of the Plea Agreement, any documents, statements, information, testimony, or evidence provided by him to attorneys or agents of the United States, federal grand juries, or courts, and any leads derived therefrom, may be used against him in any such further prosecution. In addition, the defendant unconditionally waives his right to challenge the use of such evidence in any such further prosecution, notwithstanding Fed. R. Evid. 410.

#### **ENTIRETY OF AGREEMENT**

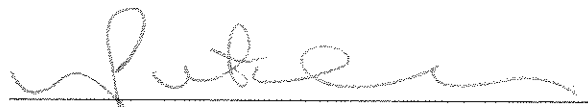
22. This Plea Agreement constitutes the entire agreement between the United States and the defendant concerning the disposition of the criminal charges in this case. This Plea Agreement cannot be modified except in writing, signed by the United States and the defendant.

23. The undersigned attorneys for the United States have been authorized by the Attorney General of the United States to enter this Plea Agreement on behalf of the United States.

24. A facsimile signature shall be deemed an original signature for the purpose of executing this Plea Agreement. Multiple signature pages are authorized for the

purpose of executing this Plea Agreement.

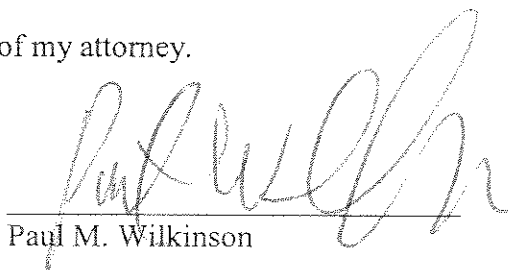
By:



Mark W. Pletcher  
Portia R. Brown  
John F. Terzaken  
Trial Attorneys  
United States Department of Justice  
Antitrust Division, Criminal Enforcement Section

I have read this Plea Agreement and carefully reviewed every part of it with my attorney. I understand it, and I voluntarily agree to it. Specifically, I have reviewed the factual and advisory guidelines stipulations with my attorney, and I do not wish to change any part of it. I am completely satisfied with the representation of my attorney.

7/29/08  
Date

  
Paul M. Wilkinson

I am Paul M. Wilkinson's attorney. I have carefully reviewed every part of this Plea Agreement with him, including the factual and advisory guidelines stipulations. To my knowledge, his decision to enter into this agreement is an informed and voluntary one.

7/29/08  
Date

Gordon Mehler  
Gordon Mehler, Esq.